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Letter dated 25 July 2016 from the Security Council Facilitator for the implementation of resolution 2231 (2015)

I have the honour to transmit herewith, as agreed among the representatives of the Security Council for the implementation of resolution 2231 (2015), my six-month report on the implementation of the resolution, which covers the period from 16 January to 15 July 2016.

I should be grateful if the present letter and the report could be issued as a document of the Council.

(*Signed*) Román **Oyarzun Marchesi**
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implementation of resolution 2231 (2015)

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Six-month report of the Facilitator on the implementation of Security Council resolution 2231 (2015)

I. Introduction

1. The note by the President of the Security Council of 16 January 2016 (S/2016/44) set forth the practical arrangements and procedures for the Council for carrying out tasks related to the implementation of resolution 2231 (2015), particularly with respect to the provisions specified in paragraphs 2 to 7 of annex B to that resolution.

2. The note established that the Security Council should select on an annual basis one member to serve as its facilitator for the functions specified therein. It also established that the facilitator should brief the other members of the Council on its work and the implementation of resolution 2231 (2015) every six months, in parallel with the report submitted by the Secretary-General on the implementation of the resolution.

3. On 16 January 2016, I was appointed by the Council as Facilitator for the implementation of resolution 2231 (2015) for the period ending 31 December 2016.

4. I would like to recall that Implementation Day of the Joint Comprehensive Plan of Action (JCPOA) was achieved on 16 January, when the Security Council received the report from the International Atomic Energy Agency (IAEA) confirming that the Islamic Republic of Iran had taken a series of nuclear-related actions called for in the JCPOA. On the same day, in accordance with paragraph 7 of resolution 2231 (2015), the provisions of Security Council resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010) and 2224 (2015) were terminated, and new provisions came into effect, requiring all States to comply with paragraphs 1, 2, 4 and 5 and the provisions in subparagraphs (a)-(f) of paragraph 6 of annex B and calling on all States to comply with paragraphs 3 and 7 of annex B. Accordingly, Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Council's decision.

5. The present report covers the period from 16 January to 15 July 2016 and is divided into five sections: (a) setting-up of the "2231 format"; (b) Joint Comprehensive Plan of Action; (c) monitoring and alleged actions inconsistent with resolution 2231 (2015); (d) procurement channel approval, confidentiality, notifications and exemptions; and (e) transparency, outreach and guidance.

II. Setting-up of the "2231 format"

6. Since the moment I was selected by the Security Council to serve as Facilitator for the implementation of resolution 2231 (2015), I attached special importance to the setting-up of the "2231 format" in the Council. The Council established a network of representatives of the Council for the implementation of resolution 2231 (2015); a channel for communications related to the resolution among Council members and with the Joint Commission of the JCPOA; and a webpage on resolution 2231 (2015).

7. As part of this effort, I had the support of the Secretariat, through the Security Council Affairs Division of the Department of Political Affairs.

8. I consider that the 2231 webpage has been useful for those interested in the implementation of the resolution, particularly with regard to the transfers and activities covered by paragraph 2 of annex B to resolution 2231 (2015), which may be conducted provided they have been approved, in advance and on a case-by-case basis, by the Security Council on the basis of the recommendation of the Joint Commission of the JCPOA. I am glad to report that since Implementation Day no fewer than 70,000 page views have been registered.

9. The 2231 webpage also contains the "2231 List", which consists of the individuals and entities that were specified on the list established and maintained by the Security Council Committee established pursuant to resolution 1737 (2006) as of the date of adoption of resolution 2231 (2015) (20 July 2015), with the exception of 36 individuals and entities specified in the attachment to annex B to the same resolution who were delisted on Implementation Day. Furthermore, on 17 January 2016 the Security Council removed one entity (Bank Sepah and Bank Sepah International) from the 2231 List. There are currently 23 individuals and 61 entities on the 2231 List that are subject to the asset freeze. The individuals included in the List are also subject to travel restrictions.

10. During the reporting period, the representatives of the Security Council for the implementation of resolution 2231 (2015) held three informal meetings, on 11 February, 1 April and 12 July. On 11 February, they discussed the implementation of resolution 2231 and, after the meeting, met with the Coordinator of the Procurement Working Group of the Joint Commission of the JCPOA, who briefed them on the work of the "procurement channel".

11. On 1 April, the representatives of the Security Council for the implementation of resolution 2231 (2015) discussed the launches of ballistic missiles by the Islamic Republic of Iran on 7 and 9 March. The delegation of the United States of America made a technical presentation on the launches. Following the discussions, the representatives agreed on the elements detailed below.

12. On 12 July, I convened an informal meeting of the Security Council at the expert level to review the findings and recommendations contained in the first report of the Secretary-General on the implementation of resolution 2231 (2015) before its public release.

III. Joint Comprehensive Plan of Action

13. Annex A to resolution 2231 (2015) consists of the JCPOA, endorsed by the Security Council in paragraph 1 of the resolution. The conclusion of the JCPOA marked a shift in the Council's consideration of the Iranian nuclear issue.

14. On 16 January 2016, in line with paragraph 5 of resolution 2231 (2015), the Director General of the International Atomic Energy Agency submitted to the IAEA Board of Governors and, in parallel, to the Security Council a report confirming that the Islamic Republic of Iran had taken the actions specified in paragraphs 15.1 to 15.11 of annex V to the JCPOA. On the same day, the Islamic Republic of Iran began to provisionally apply the Additional Protocol to its Safeguards Agreement, pending its entry into force, and to fully implement the modified Code 3.1 of the Subsidiary Arrangements to its Safeguards Agreement. Agency activities carried out

under the Additional Protocol to ascertain that there are no indications of undeclared nuclear material or activities in Iran also commenced on 16 January 2016.

15. In March and June 2016, IAEA issued two quarterly reports on its verification and monitoring activities in the Islamic Republic of Iran in the light of resolution 2231 (2015) (see S/2016/250 and S/2016/535). In the reports, the Agency reported its ongoing verification and monitoring of the implementation by the Islamic Republic of Iran of its nuclear-related commitments under the JCPOA. The Agency further reported that it was continuing to verify the non-diversion of declared nuclear material at the nuclear facilities and locations outside facilities where nuclear material is customarily used (LOFs) declared by the Islamic Republic of Iran under its Safeguards Agreement. Evaluations regarding the absence of undeclared nuclear material and activities for the Islamic Republic of Iran remain ongoing.

IV. Monitoring and alleged actions inconsistent with resolution 2231 (2015)

16. The note by the President of the Security Council of 16 January 2016 (S/2016/44) provides that the Council shall take any necessary action to support and improve the implementation of resolution 2231 (2015), including monitoring the implementation of the resolution and responding appropriately to information regarding alleged actions inconsistent with the resolution. During the reporting period, the Council received information about ballistic missile launches by the Islamic Republic of Iran on 7 and 9 March 2016, and about the seizure of arms allegedly coming from the Islamic Republic of Iran and bound for Yemen. The Council will remain vigilant and closely monitor the implementation of resolution 2231 (2015); the Council does not intend, however, to monitor or report on an ongoing basis on the JCPOA participants' fulfilment of their commitments under the JCPOA, given that the JCPOA itself contains monitoring and dispute resolution mechanisms.

Ballistic missile launches

17. As agreed during the Security Council consultations held on 14 March, the Council met in the 2231 format on 1 April to further consider the launches of ballistic missiles by the Islamic Revolutionary Guard Corps of the Islamic Republic of Iran in early March during the "Eqtedar-e-Velayat" military exercise. In a letter dated 28 March, France, Germany, the United Kingdom of Great Britain and Northern Ireland and the United States submitted a report on these launches. This letter was circulated to the 2231 representatives on 30 March. On the same day, a letter from the Permanent Representative of the Islamic Republic of Iran conveying a letter dated 23 March addressed to the Secretary-General and the President of the Security Council was also received and circulated to the 2231 representatives. In this letter, he stressed, inter alia, that resolution 2231 (2015) did not prohibit legitimate and conventional military activities, nor did international law disallow them, and that the activities of the Islamic Republic of Iran were not inconsistent with the resolution, as the country had not undertaken "any activity related to ballistic missiles designed to be capable of delivering nuclear weapons". He added that the Islamic Republic of Iran had never sought to acquire nuclear weapons and never would in the future, as it fully honoured its commitment under the Treaty on the Non-Proliferation of Nuclear Weapons and the JCPOA.

18. As offered by the Permanent Representative of the United States to the United Nations on 14 March, during the 1 April meeting the representatives heard a briefing by the delegation of the United States regarding these launches. United States experts observed that the ballistic missiles tested by the Islamic Republic of Iran were designed to deliver a payload of at least 500 kilograms (the weight of a first-generation nuclear warhead) to a range of at least 300 kilometres (a distance that would qualify as a "strategic strike") and thus, in their view, were designed to be inherently capable of delivering nuclear weapons.

19. During the deliberations, several representatives expressed great concern that the recent missile launches of the Islamic Republic of Iran not only had been conducted in defiance of resolution 2231 (2015), but also had been destabilizing and provocative, and called for an appropriate response by the Security Council. Other representatives emphasized that these launches could not be described as a violation of resolution 2231 (2015) and said that the Council did not prohibit but only "called upon" the Islamic Republic of Iran not to conduct launches of ballistic missiles designed to be capable of delivering nuclear weapons.

20. On numerous occasions, the Islamic Republic of Iran had denied the intention of obtaining nuclear weapons, and had not only made oral statements, but also agreed to relevant commitments under the JCPOA. Several representatives stressed the importance of the Security Council acting with caution and prudence in order not to undermine the implementation of the JCPOA. Other representatives insisted that full implementation of resolution 2231 (2015) would create an atmosphere conducive to the successful implementation of the JCPOA.

21. During both the Security Council consultations held on 14 March and the 2231 format meeting held on 1 April, no consensus was reached among Council members as to whether these Iranian launches were covered by resolution 2231 (2015). Nevertheless, Council members agreed that all Member States, including the Islamic Republic of Iran, must act in accordance with all provisions of resolution 2231 (2015).

22. I must stress that the discussion on these Iranian launches is exhausted in the 2231 format. I would like to emphasize that it is essential that the Security Council act with unity with regard to resolution 2231 (2015), so as to assist in its effective implementation and to create certainty. I welcome the firm commitment of all Council members to ensuring that the provisions of resolution 2231 (2015) are fully implemented and enforced for as long as they remain in effect.

Arms seizures

23. On 7 June, a Member State submitted to the Security Council a report indicating that its naval forces had encountered and boarded a dhow transiting international waters in the vicinity of the Gulf of Oman. According to the report, this action was taken in accordance with customary international law, and a large weapons cache was discovered, which included 1,500x Kalashnikov variant rifles, 200x RPG-7 and RPG-7V rocket-propelled grenade launchers and 21x DshK 12.7 mm machine guns. On the basis of an analysis of available information, including crew interviews and a review of the arms on board the vessel, the Member State concluded that the arms had originated in the Islamic Republic of Iran and were likely bound for Yemen.

24. In the light of paragraph 6 (b) of annex B to resolution 2231 (2015), on 17 June I sent a letter to the Permanent Representative of the Islamic Republic of Iran to the United Nations inviting his Government to comment on the report. As of the closing date for the present report, the Islamic Republic of Iran had not responded formally to my letter. However, in the course of my contacts with the Permanent Mission of the Islamic Republic of Iran to the United Nations, it informed me that it rejected such an allegation and that the Islamic Republic of Iran had never engaged in such delivery. In any case, I look forward to a formal reply in due course.

25. On 5 July, another Member State submitted to the Security Council a report on the implementation of paragraph 6 (b) of annex B to resolution 2231 (2015) indicating that its naval forces had encountered and boarded a ship in the northern Indian Ocean. On board the ship, an important arms cache had been found, including AK-47 assault rifles, precision rifles, machine guns and anti-tank missiles. On the basis of an analysis of the available information, including crew interviews and a review of the arms, the Member Sate concluded that the arms had originated in the Islamic Republic of Iran and were likely bound for Yemen or Somalia.

26. In this regard, I would like to stress that, under paragraph 6 (b) of annex B, "all States are to ... [t]ake the necessary measures to prevent, except as decided otherwise by the UN Security Council in advance on a case-by-case basis, the supply, sale, or transfer of arms or related materiel from Iran by their nationals or using their flag vessels or aircraft, and whether or not originating in the territory of Iran, until the date five years after the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier". Therefore, engaging in such activities without the authorization of the Security Council would be a violation of resolution 2231 (2015).

V. Procurement channel approval, confidentiality, notifications and exemptions

27. During the reporting period, I have been working closely with the representatives of the Joint Commission and the Secretariat on the practical arrangements of the procurement channel. On 26 April, I met with Helga Schmid, who was Political Director of the European External Action Service of the European Union at the time (the High Representative of the European Union for Foreign Affairs and Security Policy acts as Coordinator of the Joint Commission). My team has been working closely with the representatives of the Procurement Working Group (they met in New York in February and March) and the Secretariat on the practical arrangements of the procurement channel. Efforts have been devoted to updating the 2231 website, where information on all relevant Procurement Working Group documents (information note, optional application form and its explanatory note, optional end-use certification and its explanatory note) is currently available in all six United Nations official languages. In this regard, I would like to note that I have strived to ensure that the legal framework is clear and accessible.

28. On 26 April, I received a proposal by a Member State to permit activities set forth in paragraph 2 of annex B to resolution 2231 (2015). In accordance with paragraph 6 (f) (iii) of the note by the President of the Security Council (S/2016/44), the proposal was immediately transmitted to the Joint Commission for its review. The proposal was subsequently withdrawn on 1 June by the Member State.

29. Ensuring the confidentiality of the above-mentioned proposals has been one of my priorities. Paragraph 3.4 of annex IV to the JCPOA states, "except as provided in Section 6 of this Annex [Procurement Working Group] which will be subject to the confidentiality procedure of the United Nations ...". In the note by the President of the Security Council (S/2016/44), the Council further declared that its members "shall treat as confidential documents created by, transmitted to or sent from the Council under the present arrangements and procedures". Proposals related to paragraph 2 of annex B to resolution 2231 (2015) and all subsequent communications related to the procurement channel are handled by the Facilitator and the Secretariat in accordance with the requirements of the Secretary-General's bulletin on information sensitivity, classification and handling (ST/SGB/2007/6) and Council practice. Moreover, the "Statement on confidentiality in the Procurement Working Group and the Joint Commission for matters relating to the procurement channel" has been posted on the 2231 webpage.

30. Paragraph 2 of annex B to resolution 2231 (2015) provides that approval in advance by the Security Council is not required for certain activities directly related to the necessary modification of two cascades at the Fordow facility for stable isotope production, the export of the Islamic Republic of Iran's enriched uranium in excess of 300 kilograms in return for natural uranium, and the modernization of the Arak reactor based on the agreed conceptual design and, subsequently, on the agreed final design of that reactor, provided that Member States ensure that: (a) all such activities are undertaken strictly in accordance with the JCPOA; (b) they notify the Security Council and the Joint Commission 10 days in advance of such activities; (c) the requirements, as appropriate, of the guidelines set out in the referenced information circular (INFCIRC) have been met; (d) they have obtained and are in a position to exercise effectively a right to verify the end-use and end-use location of any supplied item; and (e) in case of supplied items, materials, equipment, goods and technology listed in the referenced INFCIRCs, they also notify IAEA within 10 days of the supply, sale or transfers. During the reporting period, I did not receive any such notifications.

31. No travel ban or asset freeze exemptions have been requested since 16 January 2016.

32. In June, the Russian Federation submitted a draft note by the President of the Security Council containing an optional application form for procuring military goods to the Islamic Republic of Iran falling under the seven categories of the United Nations Register of Conventional Arms. There was no consensus among members of the Security Council for the adoption of such a document.

VI. Transparency, outreach and guidance

33. During the reporting period, I have attached high priority to transparency, outreach and practical guidance. In order to improve its implementation, it is important that resolution 2231 (2015) be well understood.

34. On 1 March, I convened an open briefing on resolution 2231, during which I gave an overview of its main provisions and of its implementation by the Security Council. In addition, representatives of the Procurement Working Group of the Joint Commission provided a detailed briefing on the procurement channel, while the

Director of the Security Council Affairs Division presented the activities undertaken by the Secretariat to support the work of the Council and the Facilitator.

35. As I mentioned earlier, with the support of the Secretariat, I have sought to have a dedicated webpage on resolution 2231 (2015) with as much information as possible. This has greatly enhanced the understanding of Member States about the procedures related to the submission of proposals to the Security Council and, in my opinion, reflects interest in the resolution as well as in the economic opportunities that the JCPOA offers.

36. During the reporting period, the Secretariat responded to queries from several Member States regarding the lifting of sanctions and the newly established restrictions, as well as the procedures for the submission of nuclear-related proposals to the Security Council and the process for review. In many cases, the referral to the 2231 webpage was useful.

37. I believe that outreach could be enhanced if the Secretariat were to engage in technical activities to promote awareness of resolution 2231 (2015) in parallel with the outreach activities of the Facilitator.

38. During the reporting period, I held bilateral consultations with representatives of permanent missions of Member States to the United Nations, including the Islamic Republic of Iran, to discuss issues relevant to the implementation of resolution 2231 (2015). These meetings were useful for maintaining regular dialogues with States, which have the obligation to carry out the decisions of the Security Council.